

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

UNITED STATES of AMERICA,

v.

TRENT NYFFELER (13)

)
)
)
)
)
)
)

3:06-CR-00151-FDW

MOTION FOR A 5K1.1 DOWNWARD DEPARTURE

Comes now the United States, through its undersigned counsel, and herewith moves this Court for a three level 5K1.1 downward departure in the case of defendant TRENT NYFFELER.

TRENT NYFELLER (known as "Tula") was the list broker who supplied leads to the many of the call centers in Costa Rica. By November 2004 NYFELLER conclusively knew that the various defendants were using his lists for fraudulent purposes. The call lists were the *sine qua non* of effectuating the sweepstakes scheme to defraud. Without the lists, the telemarketers had no one to call. NYFFELER was on vacation outside of the United States on May 16, 2006 when his home and office were raided in Texas. When he learned of the search, he immediately got in touch with the agent conducting the search and started cooperating.

NYFELLER's assistance in interpreting the evidence that was seized in the search of his house has been very useful in building cases against other defendants. With NYFELLER'S assistance we were able to corroborate what our investigators had been told by other cooperating witnesses.

NYFELLER has testified in two trials. NYFELLER testified effectively that he had sold lists to both Pillegi and Mangarella, who used the false names Robert Haley and

John Brozzi, respectively. These names corroborated other witnesses who testified that Pileggi and Mangarella used these false names. In addition, NYFELLER's records proved that Mangarella had purchased thousands of names from NYFELLER.

Accordingly, in the Pileggi case, at trial, Pileggi denied that he had ever spoken with NYFELLER. NYFELLER was recalled as a witness and testified very convincingly that he recognized Pileggi's voice, as he had heard it about 100 times as the customer named Robert Haley who had purchased dozens of lead lists, which he had shipped first to Canada and later to Costa Rica.

The PSI recommendation for NYFFELER is level 28 after acceptance and a Criminal History Category of I with a Guideline sentencing range of 78 - 97 months. In the government's opinion, the cooperation NYFFELER has provided merits a downward departure as contemplated by Section 5K1.1 of three levels. Thus his offense level would be a 25 with a Guideline sentencing range of 57 – 71 months.

Respectfully submitted, this the 25th day of September, 2008.

GRETCHEN C. F. SHAPPERT
UNITED STATES ATTORNEY

s/ Peter B. Loewenberg
PETER B. LOEWENBERG
Trial Attorney
PATRICK M. DONLEY
Senior Litigation Counsel
ROOM 3110 BOND BUILDING
1400 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005
(202) 514-0840
(202) 514-7021 (facsimile)
peter.loewenberg@usdoj.gov
patrick.donley2@usdoj.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on the following parties through the electronic filing system of the U.S. District Court for the Western District of North Carolina.

Christopher A. Beechler - cbeechler@beechlerlaw.com
Counsel for GIUSEPPE PILEGGI (1)
Nils E. Gerber - ggerbo@yahoo.com
Counsel for HERMAN KANKRINI (2)
Chiege O. Kalu Okwara - chiege@aol.com
Counsel for MICHAEL ATTILIO MANGARELLA (3)
John James Cacheris - Jcacheris@dmpm.com
Counsel for DAVID MICHAEL HENNESSEY (4)
Aaron E. Michel - mail@aaronmichel.com
Counsel for VICTOR RONALD KUSTRA (5)
Samuel Rabin, Jr. - sjr@miamilawyer.com
Counsel for MARTIN KALCHSTEIN (6)
Daniel Baker McIntyre, III - bmcintyre3@bellsouth.net
Counsel for LARRY EDWARD CUNNINGHAM (7)
Richard Lamb Brown, Jr. - arichardbrownl@carolina.rr.com
Counsel for BRIAN WALL COYLE (8)
Richard Deke Falls - deke@barnettfalls.com
Counsel for JESSE DAVID REID (9)
Kenneth D. Snow - kennsnowlaw@bellsouth.net
Counsel for MICHAEL FORCHEMER (11)
Donald Eugene Henderson - donatty@gmail.com
Counsel for RAY ANTHONY BINGHAM WANCHOPE (14)

The undersigned further certifies that a copy of the foregoing was served on the following parties by U.S. Mail.

James Warren Lane
204 W. Central Avenue
Forth Worth, TX 76106

Marlo P. Cadeddu
3232 McKinney Avenue
Suite 700
Dallas, TX 75204

Counsel for TRENT NYFFELER (13)

This the 25th day of September, 2008.
s/ Peter B. Loewenberg
PETER B. LOEWENBERG